IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EUGENE SCALIA, SECRE UNITED STATES DEPAR)	
	Plaintiff,)	
V.)	Civil Action No.
CLASSIC HEALTHCARE and OM KOIRALA,	INC.)	
	Defendants.)	

COMPLAINT

Plaintiff, Eugene Scalia, Secretary of Labor, United States Department of Labor ("Plaintiff") brings this action to enjoin CLASSIC HEALTHCARE INC., a corporation, and OM KOIRALA, an individual, (collectively, "Defendants"), from violating the provisions of Sections 6, 7, 11(c), 15(a)(2), and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq. ("the Act"), and for a judgment against Defendants in the total amount of back wage compensation found by the Court to be due to any of the employees of Defendants pursuant to the Act and an equal amount due to the employees of Defendants in liquidated damages.

- 1. Jurisdiction of this action is conferred upon the Court by Section 17 of the Act, 29 U.S.C. § 217, and by 28 U.S.C. §§ 1331 and 1345.
- 2. Defendant CLASSIC HEALTHCARE INC. ("CLASSIC HEALTHCARE"), is a corporation organized under the laws of the Commonwealth of Pennsylvania, with a place of business at 2638 Columbia Ave, Lancaster, PA 17603. CLASSIC HEALTHCARE is engaged in

the operation of a healthcare staffing agency located at 2638 Columbia Ave, Lancaster, PA 17603, within the jurisdiction of this court.

- 3. Defendant OM KOIRALA ("KOIRALA") is the owner of CLASSIC HEALTHCARE. During the relevant period, KOIRALA was actively involved in the daily operations of the firm and oversees CLASSIC HEALTHCARE'S operations. KOIRALA was responsible for hiring, firing and promoting employees. KOIRALA also had the authority to handle employees' disciplinary actions and dealt with customers when required.
- 4. The business activities of Defendants, as described herein, are and were related and performed through unified operation or common control for a common business purpose of providing domestic services and constitute an enterprise within the meaning of Section 3(r) of the Act.
- 5. Defendants employ persons in domestic service, which affects commerce per Section 2(a)(5) of the Act. Defendants' employees, among other things, provide in-home healthcare services to CLASSIC HEALTHCARE'S patient-clients.
- 6. Defendants willfully violated the provisions of Sections 6 and 15(a)(2) of the Act by employing domestic service workers and caregivers in an enterprise engaged in commerce or in the production of goods for commerce and compensating these employees at rates less than the applicable statutory minimum rate prescribed in Section 6 of the Act. Therefore, Defendants are liable for unpaid minimum wages and an equal amount of liquidated damages under Section 16(c) of the Act.

For example: During the time period from at least October 1, 2017 through at least April 24, 2019, Defendants failed to pay ten (10) employees at CLASSIC HEALTHCARE the applicable minimum wage for all hours worked. In numerous workweeks, employees were not

paid for all hours worked and as a result their hourly rate for the workweek fell below \$7.25 per hour.

7. Defendants willfully violated the provisions of Sections 7 and 15(a)(2) of the Act by employing their employees in an enterprise engaged in commerce or in the production of goods for commerce for workweeks longer that those prescribed in Section 7 of the Act without compensating said employees for employment in excess of the prescribed hours at rates not less than one and one-half times their regular rates. Therefore, Defendants are liable for the payment of unpaid overtime compensation and an equal amount of liquidated damages under Section 16(c) of the Act.

For example: During the time period from at least October 1, 2017 through at least April 24, 2019, CLASSIC HEALTHCARE failed to compensate employees who worked over 40 hours in a workweek one and one-half times their regular rate for those overtime hours. One-hundred and two (102) employees at CLASSIC HEALTHCARE worked in excess of 40 hours in many workweeks but did not receive time and one-half their regular rate for their overtime hours due to payment of straight time for hours worked over 40 in a workweek. In some weeks, employees were paid overtime for hours worked over 80 in a two-week period and were not always paid overtime for hours worked over 40 in a workweek. During other weeks, the employer paid standard rate for all hours worked even where the employee worked more than 80 hours over two weeks, which also resulted in employees not being paid overtime for hours worked over 40 in a workweek.

8. Defendants violated the provisions of Sections 11(c) and 15(a)(5) of the Act in that Defendants failed to make, keep, and preserve adequate and accurate records of their employees, which they maintained as prescribed by the regulations issued and found at 29 C.F.R.

Part 516. Specifically, Defendants failed to make, keep, and preserve records containing employees' hours worked each workday and total hours worked each workweek; total daily or weekly straight-time earnings or wages due for hours worked during the workday or workweek, exclusive of premium overtime compensation; and total premium pay for overtime hours. 29 C.F.R. §§ 516.2(a)(7), (8), (9).

WHEREFORE, cause having been shown, the Secretary prays for judgment against Defendants providing the following relief:

- (1) For an injunction issued pursuant to Section 17 of the Act permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with Defendants who receive actual notice of any such judgment, from violating the provisions of Sections 6, 7, 11(c), 15(a)(2) and 15(a)(5) of the Act; and
- (2) For judgment pursuant to Section 16(c) of the Act finding Defendants liable for unpaid minimum wage and overtime compensation due to certain of Defendants' current and former employees listed in the attached Schedule A for the period of October 1, 2017 through April 24, 2019, and for an equal amount due to certain of Defendants' current and former employees in liquidated damages. Additional amounts of back wages and liquidated damages may also be owed to certain current and former employees of Defendants listed in the attached Schedule A for violations continuing after April 24, 2019, and may be owed to certain current and former employees presently unknown to the Secretary for the period covered by this Complaint, who may be identified during this litigation and added to Schedule A; or
- (3) In the event liquidated damages are not awarded, for an injunction issued pursuant to Section 17 of the Act restraining defendants, their officers, agents, employees, and those persons in active concert or participation with defendants, from withholding the amount of

unpaid minimum wages and overtime compensation found due defendants' employees and prejudgment interest computed at the underpayment rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621.

FURTHER, Plaintiff prays that this Honorable Court award costs in his favor, and an order granting such other and further relief as may be necessary and appropriate.

Respectfully submitted,

Kate S. O'Scannlain Solicitor of Labor

Oscar L. Hampton III Regional Solicitor

By: Ethan M. Dennis

PA ID# 308871

Office of the Solicitor, Region III Suite 630 East, The Curtis Center 170 South Independence Mall West Philadelphia, PA 19106-3306 (215) 861-5142 (Phone) (215) 861-5162 (Fax) Dennis.Ethan.M@dol.gov

U.S. DEPARTMENT OF LABOR

Attorneys for Plaintiff

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IF ANY SIGNATURE OF ATTORNEY OF RECORD DATE 02/06/2020 FOR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING IFP JUDGE MAG JUDGE

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Address of Defendant:	Idress of Defendant: 2638 Columbia Ave, Lancaster, PA 17603						
	2638 Columbia Ave, Lancaster, PA 17603						
RELATED CASE, IF ANY:							
Case Number:	Judge Date Terminated						
Civil cases are deemed related when Yes is answered to any of the following questions:							
Is this case related to property included in an earl previously terminated action in this court?							
	Does this case involve the same issue of fact or grow out of the same transaction as a prior suit Yes No Verification in this court?						
	Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?						
4 Is this case a second or successive habeas corpus case filed by the same individual?	Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights Yes No Vo						
l certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above DATE O2/06/2020 Attorney-at-Law / Pro Se Plaintiff Attorney I D # (if applicable)							
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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

CIVIL ACTION

Eugene Scalia, Secretary of Laobr,

Telephone	FAX Nu	mber	E-Mail Addres	S		
(215) 861-5142	(215) 861-51	62	dennis.ethan.m@dol	gov		
Date	Attorney	-at-law	Attorney for			
February 6, 2020	Ethan M De	nnis	Plaintiff			
(f) Standard Management - 0	Cases that do r	not fall into an	y one of the other tracks.	(
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(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos.						
(c) Arbitration - Cases required to be designated for arbitration under Local Civil Rule 53.2.						
(b) Social Security - Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits.						
a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255.						
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SCHEDULE A

Kaushila Acharya

Menuka AcharyaDhungel

Jose Arzuaga

Chandra Baral

Indra Baral
Tila Baral
Uma Baral
Samantha Batista

Phulguna Bhandari

Khagendra Bhandari Ram Bhandari

Gayatra Bhandari

Binita Bhattarai Ambar Bhattarai

Amrita Bhattarai

Damber Bhattarai
Damber Bhattarai
Cindi Bollinger

Cheryl Cappellini

David Castro
Bhup Chhetri
Maria Colon
Roma Darji

Yam Dhakal Goma Dhital Bidya Dhungel

Ana FigueroaMatos

Yam Ghimiray Madhavi Ghimire Bulbl Ghimirey Sadhira Gonzalez Latesha Grey

Latesha Grey
Jeanne Grove

Clara Guadarramos

Bishal Gurung
Krishna Gurung
Nar Gurung
Ran Gurung
Man Gurung

Tula Gurung Gauri Gurung Guzman Miguel Renuka Kafley Kafley Ganga Dadi Kafley Sumandra Karki Meena Karki Indra Katuwal Katuwal Ghanashyam Larue Alisa Srijana Magar Kiran Magar BampiRaj Mallik Santa Manger Shrijana Manger Melendez Maria Modesto Hiram Monroe Maria Muse Nimo Muse Fadumo Negron Luis Tribikram Neopaney Bhim Neopaney Quynhhoa Nguyen Nile Asenath Kaushal Patel Surekhaben Patel Pena Ana Shaista Perveen Pokharel Susma Indra Poudel Tanka Poudel Mohan Poudyel Rai SanM Madeline Ralat Seeta Regmi Rivera Monalisa Rivera Lydia Mariliz Rodriguez Milca Ruiz

Santiago Michelle Carmen Santiago Sandra Smith Lucchere Striver Meena Subedi Kheena Subedi Khem Subedi Bhima Subedi Damber Subedi Chhegu Tamang Juni Tamang Suk Tamang Raju . Tamang Jas Tamang Nima Tamang Raju Tamang ThapaMagar Apsara Timsina Rabi Timsina Rishi Narayan Timsina Maria Tirado Selmary Tirado Elba Torres Luz Torres Jerica Torres Jonathan Torres Upreti Thiren Bhima Uprety Bhima Uprety Vazquez Ileana Solmarie Velez Zink Oshakee